

B. R.
PRIME MINISTER

EDUCATION BILL: SEX EDUCATION AT SCHOOL

You may like to glance at the attached letter from Kenneth ^{Baker} Clarke to Lord Whitelaw. Mr. ^{Baker} Clarke proposes that school governors should be obliged to issue policy statements on the control and organisation of sex education in this school. This would mean that they could include provision for the withdrawal of pupils at parental request.

Mr. Baker intends to announce this at the Party Conference.

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AB

3 October, 1986.

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DEPARTMENT OF EDUCATION AND SCIENCE
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FROM THE SECRETARY OF STATE

The Rt Hon Viscount Whitelaw PC CH MC
Lord President of the Council
68 Whitehall
London SW1

3 October 1986

Dear Willie,

EDUCATION BILL: SEX EDUCATION AT SCHOOL

As you know, we are coming under much pressure from our supporters to concede a statutory right of withdrawal at parental request from sex education in schools. Amendments to this effect have been tabled for the Commons Report Stage of the Education Bill on 21 October, attracting widespread support on both sides of the House. Chris Patten's letter of 7 August to Parliamentary colleagues (copy enclosed) has not sufficiently stemmed the tide.

I think it necessary to offer some concession. Nicholas Edwards* and I have reviewed the options. We remain convinced that an absolute right of withdrawal is not the answer, for the reasons of principle and practicality described in Chris Patten's letter.

We believe the right course instead is to strengthen still further lay, and particularly parental, influence over this area of the curriculum. We intend to table amendments to the Bill to give governing bodies of county, controlled and maintained special schools a duty to formulate and keep up to date a policy statement about the content and organisation of any sex education which they choose to provide in their school. They would be required to have regard to the local education authority's policy and to consult the head teacher; but the policy would ultimately be their own. The head would also be placed under a duty to ensure that the curriculum followed in the school was compatible with the governors' policy statement. The effect would be that, in this sole area of the secular curriculum, decisions on whether to provide sex education, and if so what should be its content and how it should be organised, would be matters for the governors, not for professional judgement alone. All the parties concerned would continue to be bound by clause 26 of the Bill which brings moral considerations and the value of family life into sex education.

This change would bring county, controlled and maintained special schools broadly into line with aided schools as regards the distribution of curricular responsibilities for sex education. It would tackle the root of the problem - unsuitable teaching materials and approaches

* Wyn Roberts in Nick's absence abroad

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promoted by some LEAs and teachers. This should take much of the sting out of the campaign for an absolute right of withdrawal. But I envisage that the governors could, if they wished, make and include in their statement arrangements for excusing pupils from sex education. This would not amount to an absolute right of withdrawal since it would not operate solely at parental request. Such discretionary arrangements are possible under existing legislation. Enshrining them in the governors' statement should help to meet local needs including those of ethnic minority and religious groups. I believe that sex education can be distinguished from other sensitive areas of the secular curriculum in this way.

I intend to announce these proposals at the Party Conference, and to publish the amendments shortly afterwards. I am satisfied that they should be sufficient to enable us both to carry the Bill through Parliament and to win support in the country at large.

I am sending copies of this letter to the Prime Minister, other members of H Committee, and to Sir Robert Armstrong.

Hermon *Kenneth*



DEPARTMENT OF EDUCATION AND SCIENCE

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FROM THE MINISTER OF STATE

7 August 1986

SEX EDUCATION AT SCHOOL

Since Clause 26 of the Education Bill was not reached before the recess, I shall not now have an opportunity until the Autumn to explain in Parliament the Government's policy on sex education. I thought it would therefore be helpful if I were to write to Members to set out the Government's position.

In the Government's view, if children are to be properly equipped to face the realities and responsibilities of the modern world, it is important that they should receive adequate sex education as part of their necessary preparation for adulthood. Many parents are reluctant or even unable to provide this fully at home. It is in the interest of the pupils that schools fill any gaps and complement and develop what parents may provide.

Sex education is, however, a difficult and sensitive aspect of schools' work, about which many people have strong feelings. It is therefore of considerable concern to Members. A few examples of the subject being approached in a less than responsible manner have, quite rightly, given rise to anxiety about practice in this area. The intention of Clause 26 of the Education Bill is precisely to meet these concerns and to ensure that the teaching offered by all schools will be balanced, responsible, and, in the words of the Clause, "..... given in such a manner as to encourage pupils to have due regard to moral considerations and the value of family life". I firmly believe that sex education undertaken in accordance with Clause 26 will give parents no legitimate cause for concern and, on that basis alone, the Government sees no case for parents to be given a right to withdraw their children from provision in this field.

Other reasons reinforce us in that conclusion. Any such right would be wholly inappropriate in the secular curriculum, and would open the door to the fragmentation of school education. Nor could

it be worked in practice. Sex education is often given not as a separate time-tabled subject but as an element of several different parts of the curriculum. It may take place within a planned programme or arise spontaneously following children's questions. Pupils' education would be seriously disrupted, and the schools' task made unmanageable, if pupils had to be withdrawn every time sexual matters were discussed.

Schools are already required by Regulations to publish information about their policies on sex education so that parents can take those policies into account when choosing their children's school; the Education Bill will further increase the scope for parental consideration and discussion of their work in this area. Parent governors who will be more numerous as a result of the Bill can be influential in ensuring that parental views, for example on sex education, are given due weight; and it will, of course, be open to any parent to raise concerns about a school's approach to this subject at the annual parents' meeting provided for in the Bill. The Bill also requires the Secretary of State to make Regulations giving parents the right to obtain certain information about what their children are being taught; this right will prove particularly useful to those parents who are concerned about sex education.

We are acting to ensure that Clause 26 works effectively. The recently published HMI discussion document, "Health Education from 5 to 16", contains valuable guidance on teaching approaches and good practice in sex education. The Department is issuing, for consultation, a draft circular to local education authorities and schools, which emphasises 4 important points. First, schools should consult parents on the teaching approaches and materials to be used, and be prepared to respond to their concerns. Second, they should ensure that pupils are told about the law on sexual behaviour. Third, the risks of promiscuity should be made clear. Fourth, it is not for schools to challenge or undermine the proper role of parents in these matters. A copy of the draft circular is enclosed.

I am confident that these measures provide better safeguards for the good education of all children than a right of withdrawal.

*Yours truly,
Chris*

CHRIS PATTEN

TO: LOCAL EDUCATION AUTHORITIES AND GOVERNORS OF VOLUNTARY AIDED SECONDARY SCHOOLS

SEX EDUCATION AT SCHOOL

Introduction

1. The White Paper "Better Schools"¹ made clear that "sex education, taught within a moral framework", is an essential element in the schools' task of preparing young people for responsible adulthood. It is an element which calls for exceptionally careful and sensitive treatment. The Secretary of State therefore considers that it should be expressly addressed in the curricular policy formulated by every LEA and in any statement which individual schools prepare about their curricular aims and objectives [in accordance with the provisions of the Education Act 1986]. In addressing this issue, LEAs and schools will find it helpful to take account of the HMI discussion document "Health Education from 5 to 16"² which was recently issued. That document invites comments and the Secretary of State hopes that LEAs and schools will respond to that invitation so that their practical experience can contribute to the development of ideas and good practice in this area of the curriculum.

The Place of Sex Education within the 5-16 Curriculum

2. Sex education in some cases forms a discrete element within the school curriculum; more usually it is subsumed within a broader programme of personal and social education or health education, with particular aspects also being raised in other areas. In the course of a programme of sex education, the physical aspects of sexual behaviour should not be dealt with in isolation

1- "Better Schools". HMSO. Cmnd 9469. March 1985

2- "Health Education from 5 to 16". Curriculum Matters 6. HMSO. 1986.

and should not be artificially distanced from issues of personal relationships and responsibilities, parenthood and family life in general. [The Education Act 1986 provides that sex education in maintained schools shall be offered as far as is practicable "in such a manner as to encourage pupils to have due regard to moral considerations and the value of family life".] Teaching should be appropriate to the maturity of the pupils concerned, which may not always be adequately indicated by chronological age either in the primary or in the secondary phase.

3. It is important that schools should not express to the pupils judgements about their parents' attitudes towards sexual matters nor about the extent to which they are prepared to complement the school's work in this area. The majority of parents may wish to contribute to their children's understanding of the physical and emotional aspects of growing up, but some parents do not feel able to discuss such matters freely with their children. It is not for schools to challenge or seek to undermine family relationships.

4. The importance of personal integrity and the significance of moral values should be emphasised, and pupils should be helped to recognise the physical and emotional risks of sexual promiscuity. The aim of a programme of sex education should be to present the facts in an objective and balanced manner and to enable pupils to understand the values and other factors which influence attitudes and behaviour in our society, to form their own opinions, and to make informed, reasoned and responsible choices both while they are at school and in adulthood. In assisting pupils to appreciate the consequences of sexual behaviour, schools should avoid any implication that responsibility is the prerogative of one sex rather than the other: they should encourage recognition that both sexes share responsibilities in these matters. Schools should also see it as part of their task to ensure that pupils understand those aspects of the law which relate to sexual activity and to certain forms of sexual behaviour. Pupils should understand two things in particular. First, except in certain very restricted circumstances, it is a criminal offence for a man or boy to have sexual intercourse with a girl under 16, irrespective of whether she consents. Second, homosexual acts between males are criminal where committed in public or where one of the parties is under 21.

5. Matters about which many people have strong and deeply-held views, such as sexually-transmitted diseases (including AIDS), abortion, homosexuality, and the issues raised by contraception, should not be avoided. They feature prominently in the media and are widely discussed outside school. Pupils of all ages are likely to be aware of them and may themselves raise questions about them. Schools need to exercise great care in dealing with such issues. The recent HMI document offers, for discussion and comment, some more specific guidance on how schools might approach these controversial aspects of sex education.

6. How sex education should be handled in the classroom is, first and foremost, a matter for the professional judgement of the staff. They may need support from the authority's advisory service or through in-service training. In general, teachers should rely on their own professional expertise and the support of their professional colleagues. Particular care should be taken in choosing and making use of commercially-produced teaching materials, some of which may reflect assumptions and approaches which are not compatible with the school's own policies. When outside speakers are used, schools need to ensure that their contributions are fully integrated with the relevant teaching programmes.

The School's Policies and Parental Involvement

7. The considerations set out above make it essential for each school to have a policy for sex education and to offer sex education on the basis of clearly formulated objectives, which are pursued in a coordinated manner by all concerned, including class teachers and subject specialists. In drawing up the school's policy, heads should take into account the authority's policy and consult the governing body. Schools should keep parents fully informed about the policy and about their approaches to particularly sensitive issues. Regulations made under Section 8 of the Education Act 1980³ require local education authorities and the governors of aided and special agreement schools to publish information about "the manner and context in which education as

3- Regulation 4 of the Education (School Information) Regulations 1981, SI 1981/630, read with paragraph 4(c) of Schedule 2 to those Regulations.

respects sexual matters is given". This information, which is provided for the purpose of enabling parents to express a preference for a school in relation to their child's admission, is likely to require subsequent amplification for the purpose of informing parents of pupils in the school about the school's policies for, and approaches to, sex education. While parents have no statutory right to cause their children to be withdrawn from sex education provision, schools should be ready to discuss both their policies and their approaches with parents, and to consider sympathetically the anxieties and suggestions of individual parents.

8. Parents should also be given opportunities to see for themselves the teaching materials to be used and to receive explanations of the context in which they are to be used. Governing bodies should be informed of parental views revealed by the school's consultations with parents. Parent governors can play an important part in helping to ensure, for example, that adequate consideration is given to parental views about the handling of controversial issues. [The Education Act 1986 alters the composition of governing bodies of county, controlled and maintained special schools, and provides for the discussion of an annual report from the governing body of every maintained school at an annual parents' meeting. These provisions increase the scope for parental discussion of sex education at their children's school.]

Advice to Pupils under 16

9. It is important to distinguish between on the one hand the school's function of providing information and general guidance about sexual matters on the basis described above and, on the other, counselling and advice to individual pupils. It is particularly important to maintain this distinction in matters relating to sexual behaviour. Good teachers have always exercised pastoral interest in the welfare and well-being of pupils in a manner which is complementary and supportive to the role of parents. But this function does not and should not trespass on the proper exercise of parental rights and responsibilities.

10. The specific question of the provision of advice about contraception to girls under 16 was addressed by the recent House of Lords judgement in the Gillick case⁴. The House of Lords found that, while it should be most unusual for a doctor to provide contraceptive advice and treatment to a child under 16 without parental knowledge or consent, there were circumstances, described in one of the judgements, where he would be justified in doing so. The Secretary of State draws attention to the view expressed in the judgement of Lord Fraser of Tullybelton that ".....in the overwhelming majority of cases the best judges of a child's welfare are his or her parents"⁵. The circumstances in which the Law Lords considered it might be justifiable for a doctor to offer contraceptive advice and treatment to a girl under 16 without the knowledge and consent of her parents do not have a parallel in school education.

11. A teacher approached by a pupil for advice on sexual behaviour should, wherever possible, encourage the pupil to seek advice from his or her parents. Where the circumstances are such as to lead the teacher to believe that the pupil has embarked on, or is contemplating, a course of conduct which is likely to place him or her in moral or physical danger, or in breach of the law, the teacher has a general duty to warn the pupil of the risks involved. Whether the teacher should take the matter further, by informing the headteacher, and whether the headteacher should consider involving the pupil's parents, the specialist support services, or the local education authority, will depend on the particular circumstances involved and the professional judgement of the staff concerned. Where a pupil alleges that he or she has been sexually abused - possibly by a member of the family - the teacher should inform the headteacher who, unless satisfied that the allegation is groundless, should notify the local education authority. The authority should liaise with the social services and other agencies in accordance with established local procedures for handling cases of suspected child abuse, involving the parents as appropriate.

4- Gillick v. West Norfolk and Wisbech Area Health Authority and the Department of Health and Social Security [1986] AC 112.

5 - At page 173

EDUCATION

POLICY

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